

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Christopher Heller,) Case No.: 5:23-cv-3456-JD-KDW
)
Petitioner,)
)
vs.)
)
Warden of Kershaw Correctional)
Institution,)
)
Respondent.)

ORDER AND OPINION

This matter is before the Court on limited remand from the United States Court of Appeals for the Fourth Circuit. (DE 52.) Petitioner Christopher Heller (“Petitioner” or “Heller”) seeks to appeal this Court’s prior order adopting the recommendation of the magistrate judge and denying relief on Heller’s 28 U.S.C. § 2254 petition. (DE 43.)

Under Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure, parties to a civil action must file a notice of appeal within 30 days of the entry of the district court’s final judgment or order. Heller filed his notice of appeal on September 12, 2024—after the expiration of the 30-day appeal period. Consequently, the Fourth Circuit remanded the matter for this Court to determine whether the notice of appeal was timely under Rule 4(a)(5) and in accordance with *Washington v. Bumgarner*, 882 F.2d 899, 901 (4th Cir. 1989).

The Court concludes that Petitioner’s notice of appeal satisfies the requirements of Rule 4(a)(5). At the time of filing his notice of appeal, Petitioner submitted a document addressed to the Clerk of Court stating: “Due to me being

placed in RHU #83...I am asking that I be granted extra time to have this form filed and proceed please." (DE 45.) Petitioner further asserts that he did not receive his legal documents until the day after his filing deadline. (*Id.*)

The Court construes Petitioner's submission as a motion for an extension of time to file an appeal. In light of Petitioner's placement in the Restricted Housing Unit (RHU) and the resulting delay in access to legal materials, the Court finds that good cause exists to justify an extension under the circumstances presented.

IT IS SO ORDERED.



Joseph Dawson, III
United States District Judge

Florence, South Carolina
May 7, 2025

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.